

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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JOEL CARDENAS,

Case No. 3:15-cv-00476-MMD-CLB

Petitioner,

ORDER

v.

TIM GARRETT, *et al.*,

Respondents.

**I. SUMMARY**

This habeas matter is before the Court on Respondents' Unopposed Motion for Extension of Time for Compliance with Judgment in a Civil Case (ECF No. 109 ("Motion")) and Notice Regarding Satisfaction of Judgment (ECF No. 110 ("Notice of Satisfaction of Judgment")).

**II. BACKGROUND**

On July 2, 2024, the Court conditionally granted a writ of habeas corpus on Ground 2 of Petitioner Joel Cardenas's First Amended Petition for a Writ of Habeas Corpus brought under 28 U.S.C. § 2254, vacated the state judgment of conviction, and ordered Petitioner's release unless, under certain conditions, the State elects to retry Petitioner and commences jury selection within 120 days following the election. (ECF No. 93.) Judgment was entered (ECF No. 94) and the case closed.

**III. DISCUSSION**

**A. Motion to Amend Judgment**

On November 15, 2024, following appellate proceedings, Respondents filed a Notice of Intent to Retry Petitioner (ECF No. 108). The deadline to commence jury selection was March 17, 2025. On March 12, 2025, Respondents filed an Unopposed Motion for Extension of Time for Compliance with Judgment in a Civil Case (ECF No.

1 109). Respondents requested an extension of time to comply with the commencement of  
2 jury selection up to and including March 19, 2025, as they anticipated Cardenas would  
3 enter a guilty plea on March 17, 2025. (*Id.*)

4 When a court issues a writ of habeas corpus, it declares in essence that the  
5 petitioner is being held in custody in violation of his constitutional rights. See 28 U.S.C. §  
6 2254(a); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Courts employ a conditional  
7 order of release in appropriate circumstances, which orders the State to release the  
8 petitioner unless the State takes some remedial action, such as to retry the petitioner.  
9 See, e.g., *Wilkinson v. Dotson*, 544 U.S. 74, 89 (2005) (describing the “common practice  
10 of granting a conditional writ,” that is, “ordering that a State release the prisoner or else  
11 correct the constitutional error through a new hearing”); *Herrera v. Collins*, 506 U.S. 390,  
12 403 (1993) (“The typical relief granted in federal habeas corpus is a conditional order of  
13 release unless the State elects to retry the successful habeas petitioner, or in a capital  
14 case a similar conditional order vacating the death sentence.”) “[C]onditional orders are  
15 essentially accommodations accorded to the state, in that conditional writs enable habeas  
16 courts to give states time to replace an invalid judgment with a valid one.” *Wilkinson*, 544  
17 U.S. at 87. See also *Harvest v. Castro*, 531 F.3d 737, 742 (9th Cir. 2008).

18 A district court may modify its conditional writ even after the time provided in the  
19 conditional writ has lapsed. See *Harvest*, 531 F.3d at 744. “Logically, the equitable power  
20 of the district court in deciding a habeas petition includes the ability to grant the state  
21 additional time beyond the period prescribed in a conditional writ to cure a constitutional  
22 deficiency.” *Id.* (citing *Gilmore v. Bertrand*, 301 F.3d 581, 582-83 (7th Cir. 2002). Such  
23 modifications are governed by the Habeas Rules and, by incorporation, the Rules of Civil  
24 Procedure, including Rule 60. See *Harvest*, 531 F.3d at 745. Under Rule 60, the court  
25 may relieve a party from a final judgment or order for the following reasons: (1) mistake,  
26 inadvertence, surprise, or excusable neglect; (2) newly discovered evidence; (3) fraud,  
27 misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the  
28 judgment has been satisfied; or (6) any other reason justifying relief from the judgment.

1 See Fed. R. Civ. P. 60(b); *Stewart v. Dupnik*, 243 F.3d 549, 549 (9th Cir. 2000).

2 The Court considers the four-factor test established in *Pioneer*: (1) the danger of  
3 prejudice to the nonmoving party; (2) the length of delay; (3) the reason for the delay,  
4 including whether it was within reasonable control of the movant; and (4) whether the  
5 moving party's conduct was in good faith. See *Pioneer Invs. Servs. Co. v. Brunswick*  
6 *Assocs. Ltd.*, 507 U.S. 380, 392 (1993). In consideration of the *Pioneer* factors and  
7 because Petitioner did not oppose the motion, the Court will grant Respondents' motion.

#### 8 **B. Notice of Satisfaction of Judgment**

9 On March 19, 2025, Respondents filed a Notice Regarding Satisfaction of  
10 Judgment (ECF No. 110) requesting an order that the conditions of the writ are satisfied.  
11 They attached a copy of a March 19, 2025, judgment of conviction for Fifth Judicial District  
12 Court Case Number CR 5364, reflecting Cardenas entered a guilty plea to coercion with  
13 force and was sentenced on March 17, 2025. (ECF No. 110-1.) The Court considers the  
14 writ satisfied and there is nothing further for the Court to address in this matter.

#### 15 **IV. CONCLUSION**

16 It is therefore ordered that Respondents' Unopposed Motion for Extension of Time  
17 for Compliance with Judgment in a Civil Case (ECF No. 109) is granted *nunc pro tunc*.

18 The Clerk of Court is further directed to amend the judgment (ECF No. 94) to  
19 extend the deadline to commence jury selection to March 19, 2025, *nunc pro tunc*.

20 It is further ordered that the conditional writ of habeas corpus (ECF No. 93) is  
21 satisfied.

22 The Clerk of Court is further directed to close this case.

23 DATED THIS 25<sup>th</sup> Day of March 2025.



24  
25 MIRANDA M. DU  
26 CHIEF UNITED STATES DISTRICT JUDGE  
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